

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

COMMUNICATIONS TEST DESIGN,)	
INC.,)	
)	
Plaintiff,)	Civil Action No.
)	2:18-cv-04077-GJP
v.)	
)	
CONTEC, LLC,)	
)	
Defendant.)	

**DEFENDANT’S MOTION TO DISMISS, OR IN THE ALTERNATIVE,
TRANSFER OR STAY PLAINTIFF’S COMPLAINT**

Pursuant to 28 U.S.C. § 2201, Defendant Contec, LLC (“Contec”) hereby moves to dismiss Plaintiff Communication Test Design, Inc.’s (“CTDI’s”) Complaint, which seeks declaratory judgments of non-infringement as to two Contec patents. As set forth more fully in Contec’s supporting memorandum of law, CTDI filed this action in bad faith during active licensing discussions, only after inducing Contec to refrain from filing its own complaint against CTDI in a different forum. Consequently, this Court should decline to exercise its declaratory judgment jurisdiction and dismiss Plaintiff’s Complaint in favor of Contec’s patent infringement suit in the United States District Court for the Northern District of New York (“the New York Action”), which was filed within days of learning that CTDI’s agreement to engage in discussions was merely a tactical maneuver in an attempt to secure venue.

In the alternative, Contec requests that this case be (i) transferred, pursuant to 28 U.S.C. 1404(a), to the United States District Court for the Northern District of New York for consolidation with the New York Action, or (ii) at a minimum, stayed pending the conclusion of the New York Action.

The facts and authorities in support of this motion are set forth in the accompanying memorandum of law.

Respectfully submitted,

Dated: November 13, 2018

/s/ James J. Rodgers

James J. Rodgers, Esquire
PA Attorney Id No. 21635
jrodgers@dilworthlaw.com
Mark W. Halderman, Esquire
PA Attorney Id No. 307229
mwhalderman@dilworthlaw.com
DILWORTH PAXSON LLP
1500 Market Street, Suite 3500E
Philadelphia, PA 19102-2101
(215) 575-7000 (Tel)
(215) 575-7200 (Fax)

Coby S. Nixon
Pro hac vice application to be filed
cnixon@taylorenghish.com
Seth K. Trimble
Pro hac vice application to be filed
strimble@taylorenghish.com
TAYLOR ENGLISH DUMA LLP
1600 Parkwood Circle, Suite 400
Atlanta, Georgia 30339
Phone: (770) 434-6868
Facsimile: (770) 434-7376

Attorneys for Defendant Contec, LLC